IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 15014 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJKOT MUNICIPAL CORPROATION

Versus

ANILBHAI BHIKHUBHAI CHATRABHUJ

Appearance:

1. Special Civil Application No. 15014 of 2004

MR HS MUNSHAW for Petitioner No. 1

PS GOGIA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 24/01/2005

ORAL JUDGEMENT

#. Rule. Mr. P.S.Gogia, the learned advocate appearing for the respondent no. 1 waives service of Rule for the respondent. At the request of the learned advocate for

the petitioner and with the consent of the learned advocate for the respondent, the matter is taken up for final hearing.

#. Rajkot Municipal Corporation is before this Court, challenging judgment and order dated 31st January, 2004 in Reference (LCR) 1784 of 1987. The learned Judge of the Labour Court was pleased to partly allow the Reference and ordered reinstatement with continuity of service from the date of termination i.e. 12th May, 1987. The learned Judge is also pleased to award 25% backwages.

#. Heard the learned advocate for the parties. The learned advocate for the petitioner-Corporation places on record zerox copy of order dated 30th May, 1992, whereby Anil Bhikhubhai, the respondent-workman is appointed in pay-scale of Rs. 750-940. Mr. Munshaw contended that the learned Judge could not have granted continuity of service as the respondent-workman was engaged for the scarcity work only. The very nature of the work, for which the respondent-workman was engaged was purely of ad-hoc nature being scarcity work.

#. The learned advocate for the respondent-workman submitted that the petition is not required to be entertained as the award does not warrant an interference at the hands of this Court. He submitted that the learned Judge has struck the balance by awarding only 25% backwages. He submitted that the continuity of service was required to be granted so as to get him due gratuity.

#. Having heard the learned advocate for the parties, considering the facts of this case, this Court deems it fit to modify the award partly. The order awarding 25% backwages is quashed and set aside. The petitioner-Corporation is directed to implement the award with the aforesaid modification within four weeks from the date of receipt of this order. The petition stands disposed of. Rule is made absolute to the aforesaid extent with no order as to costs.

[RAVI R. TRIPATHI, J.]
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